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December 8, 2004

Ex Parte

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

Re: Ex Parte Presentation, *Unbundled Access to Network Elements*, WC
Docket No. 04-313, CC Docket No. 01-338

Dear Ms. Dortch:

I am writing to respond to the December 7, 2004 *ex parte* declaration filed by Verizon in the above-captioned proceeding. In that filing, Verizon now concedes that the earlier data that it provided regarding the extent to which competitive carriers purchased UNEs versus special access was fundamentally flawed. Verizon's "corrected" figures show that competitive carriers currently rely more heavily on UNEs than Verizon previously claimed.

I am writing to make two points. First, as AT&T previously explained, the "methodology" used by Verizon is a "black box" and the results it generates should be given no weight. *See, e.g.*, AT&T Comments at 96-98; AT&T Reply Comments at 75. Verizon's filing underscores this point. There is simply no way to assess meaningfully the accuracy of Verizon's data. Although Verizon has now acknowledged one major error, Verizon has refused to provide the information necessary to determine whether its study has other problems. In this regard, it is also notable Verizon does not have its affiants re-attest to the accuracy of the revisions.

Second, the timing of Verizon's filing requires that the Commission give no weight to these data. Verizon has made substantial changes to its approach and filed its revised data the day before the record in this proceeding is to close. Tellingly, it does not say when it first discovered this error. This suggests strongly that Verizon has timed its filing to prevent competitive carriers from fully assessing the new data. Verizon's conduct is particularly

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egregious given that the day before this filing Verizon advanced arguments that relied expressly on the data that it now acknowledges is flawed. *Compare* Ex Parte Letter from Dee May, Verizon, to Marlene Dortch (Dec. 6, 2004), at 3 (citing special access data that Verizon has now conceded is flawed).

Very truly yours,

/s/ C. Frederick Beckner III
Counsel for AT&T Corp.